

SC542. SUBCHAPTER 542
PAY UNDER TITLE 38--ON-CALL PAY
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- References:
- (a) Title 5, United States Code
 - (b) Title 38, United States Code
 - (c) Delegation Agreement Between the Office of Personnel Management and the Department of Defense, November 30, 1993, and December 20, 1993, respectively, concerning the use of certain personnel authorities for healthcare occupations
 - (d) [DoD Directive 1400.25](#), "DoD Civilian Personnel Management System," November 25, 1996
 - (e) Chapter 8 of title 29, United States Code, "The Fair Labor Standards Act"

SC542.1. PURPOSE

This section provides rules for compensating employees paid on-call pay under 5 U.S.C. 5371 (reference (a)) and 38 U.S.C. 7457 (reference (b)) as provided by 5 U.S.C. 1104 (reference (a)) and the Delegation Agreement between the Office of Personnel Management and the Department of Defense (reference (c)).

SC542.2. COVERAGE

SC542.2.1. This section covers certified or registered respiratory therapists, licensed physical therapists, licensed practical or vocations nurses, pharmacists occupational therapists, and other similar healthcare personnel who are not covered by 38 U.S.C. 7453 and 7454 (reference (b)), who provide with direct patient-care or service incident to direct patient-care services, and who are paid premium pay under Chapter 55 of 5 U.S.C. (reference (a)).

SC542.2.2. This section does not cover employees providing administrative, clerical, physical plant maintenance, and protective services, or employees receiving additional pay for on-call duty under 38 U.S.C. 7453(h) (reference (b)).

SC542.3. DEFINITIONS

SC542.3.1. On-Call. Being available to return to work promptly.

SC542.3.2. Dental Treatment Facility. A DoD dental facility staffed and equipped to provide dental care to eligible beneficiaries. It may be affiliated with or independent of a medical treatment facility. A dental treatment facility is funded by the Defense Health Program.

SC542.3.3. Lead Agent. The officer who, in addition to commanding a medical center within one of twelve geographic regions within the United States, is responsible for coordinating healthcare initiatives within the region. The lead Agency has no direct authority over the tri-Service commanders within the region. However, he or she works in a collaborative manner with the Military Health Services System partners to manage the delivery of healthcare within the region.

SC542.3.4. Medical Treatment Facility. A DoD health facility staffed and equipped to provide inpatient and/or outpatient medical care to eligible beneficiaries. It may be affiliated with or independent of a dental treatment facility. A medical treatment facility is funded by the Defense Health Program.

SC542.3.5. Regular Duty Hours. Those hours over an extended period; i.e., several workweeks, when an employee typically performs regularly scheduled work.

SC542.3.6. Work Unit. An entity with a specific mission, homogeneous procedures, or technology, headed by a supervisor or manager, and located in the same physical place.

SC542.4. POLICY

It is DoD policy under DoD Directive 1400.25 (reference (d)) that:

SC542.4.1. The Head of a DoD Component, or his or her designee, is authorized to designate work units where an employee may be required to be on-call. Designation of such work units should be based upon staffing needs that cannot be solved without placing an employee on-call. This authority may be delegated to a commander of a medical or dental treatment facility, or its equivalent, but no further.

SC542.4.2. The lead agent of the appropriate military health services region must be notified when any provision of 38 U.S.C. (reference (b)) is implemented within that

region. The lead Agency may monitor the use of provisions of reference (b) implemented within the region to determine the impact on healthcare delivery options.

SC542.4.3. The commander of a medical or dental treatment facility, or its equivalent, may authorize supervisors of work units where employees may be required to be on-call to schedule such employees to be on-call under this section.

SC542.4.4. An employee should not be scheduled to be on-call unless it is essential for such an employee to be IMMEDIATELY available to return to duty.

SC542.5. ELIGIBILITY

To be eligible to receive on-call pay, an employee must be assigned to a work unit for which such pay is authorized and must be officially scheduled to be on-call outside his or her regular duty hours or on a holiday.

SC542.6. ADMINISTRATION OF ON-CALL PAY

SC542.6.1. An employee officially scheduled to be on-call under this section shall be paid 10 percent of his or her applicable overtime rate (calculated based on one and one-half times an hourly rate of basic pay derived by dividing an annual rate of basic pay by 2087, as prescribed under 5 U.S.C. 5504 (reference (a))) for each hour of on-call duty.

SC542.6.2. When an employee on-call is required to return to work, on-call pay will be suspended and the employee will be paid basic pay or overtime pay, as appropriate, for the period the employee actually performs work. When released from the requirement to perform actual work, the employee will return to his or her remaining scheduled on-call status.

SC542.6.3. When an employee on-call is required to return to work, the time spent performing actual work is deemed to be at least 2 hours for pay purposes. An employee may not receive on-call pay during periods that are deemed to be actual work under this provision.

SC542.6.4. If an employee is incapacitated or otherwise unavailable to return to work during a scheduled on-call period, the employee must report his or her incapacitation or unavailability to the scheduling official. An employee unable to return to work during such a period is not entitled to on-call pay.

SC542.6.5. An employee who is excused from regular duty on a holiday or in-lieu of holiday may be scheduled to be on-call and receive on-call pay.

SC542.6.6. For overtime pay purposes under Chapter 8 of 29 U.S.C. (reference (e)), on-call pay is included in total remuneration, but hours in an on-call status are not considered hours of work.

SC542.7. RECORD-KEEPING REQUIREMENTS

The commander of a medical or dental treatment facility, or its equivalent, and the affected director of personnel shall keep adequate records to evaluate the use of this authority as required by the Assistant Secretary of Defense for Health Affairs. Such records shall include:

SC542.7.1. How the authority is used by the facility;

SC542.7.2. The location of the facility;

SC542.7.3. The type of occupations covered; and,

SC542.7.4. Any other pertinent data that may be required to evaluate the overall use of the authority by the Department of Defense and OPM.